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HEARING DATE: November 9, 2010
TIME: 10:00 AM

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: : Case No.: 07-10725 (JMP)
: :
L.I.D. LIMITED, : (Chapter 11)
: :
Debtor. :
: :
-----X

**OBJECTION OF THE INTERNAL REVENUE SERVICE TO THE MOTION OF
DEBTOR L.I.D. LIMITED FOR AN ORDER COMPELLING THE INTERNAL
REVENUE SERVICE TO ISSUE A TAX REFUND**

The Internal Revenue Service (“IRS” or the “Government”), by its attorney Preet Bharara, United States Attorney for the Southern District of New York, respectfully submits this Objection to the motion of Debtor L.I.D. Limited (“Debtor”) for an order compelling the IRS to “comply with the settlement agreement and pay certain tax refunds owed to the Debtor.”

Debtor’s motion should be denied as moot. In late July 2010, the IRS initiated the process of issuing Debtor’s tax refund, which required certain processing steps and file reviews. Although an unfortunate error delayed the issuance of this refund, on November 2, 2010, the IRS

issued and sent to Debtor Treasury Check Number 2221-44307201 in the amount of \$211,650.40.¹

“The mootness doctrine, which is mandated by the ‘case or controversy’ requirement of Article III of the United States Constitution, requires that federal courts may not adjudicate matters that no longer present an actual dispute between parties.” *Catanzano v. Wing*, 277 F.3d 99, 107 (2d Cir. 2001) (citation omitted). A case is moot “when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome,” *id.* (citations omitted), and the court can no longer provide any relief that could effectually redress the [plaintiff’s] claimed injuries. *In re Kurtzman*, 194 F.3d 54, 58 (2d Cir. 1999).

Accordingly, to the extent Debtor requests that this Court enter an order compelling the IRS to “comply with the June 7, 2010 Letter Agreement” and issue the tax refund, Debtor’s motion should be denied because Debtor has already obtained the requested relief.

¹ The Government’s June 7, 2010 letter to Debtor, which Debtor has erroneously characterized as an “agreement,” *see* Debtor’s Mot. at ¶ 11 & Ex. 1, lists \$225,158 as the “total net refund” for claims asserted by Debtors for tax years 2004 and 2005. *See* Ex. 1 at 2. However, the \$211,650.40 refund issued to Debtor on November 2, 2010, is net of: (1) a \$4,133 tax refund for tax year 2005 that was part of the Government’s June 7, 2010, estimate of \$225,158, but which was subsequently paid to Debtor by check issued on September 6, 2010; and (2) a deduction for interest accruing on an outstanding liability of \$37,575 that was owed by Debtor to the IRS for tax year 2003 and was treated as an offset for purposes of calculating the \$225,158.00 refund as of June 7, 2010. *See* Debtor’s Ex. 1 at 2; I.R.C. § 6601. Moreover, the IRS has advised the undersigned that an additional payment for interest accruing on the \$225,158 refund will be paid to Debtor within a few weeks.

Dated: New York, New York
November 5, 2010

Respectfully submitted,

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Attorney for the United States of America

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